

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO

GEORGE B. ALI,)	CASE NO. 3:08 CV 533
)	
Petitioner,)	JUDGE JOHN R. ADAMS
)	
v.)	
)	<u>MEMORANDUM OF OPINION</u>
JACQUELINE THOMAS, Warden)	<u>AND ORDER</u>
)	
Respondent.)	

On March 3, 2008, petitioner pro se George B. Ali filed the above-captioned petition for writ of habeas corpus under 28 U.S.C. § 2254. Ali was recently released from the North Coast Correctional Treatment Facility, having been convicted in February 2007, pursuant to a guilty plea, of "complicity to stolen property (5) cts.; complicity to failure to comply (1) ct.; complicity to tampering (1) ct.; complicity to possession of criminal tools ... Erie County; complicity to theft (1) count; [and] complicity to forgery (1) count." Petition (Doc. 1) at 1. Although Ali has been released from custody, he remains under the supervision of the Ohio Adult Parole Authority. For the reasons stated below, the petition is denied and this action will be dismissed.

A federal court may entertain a habeas petition filed by a person in state custody only on the ground that he is in custody

in violation of the Constitution, laws, or treaties of the United States. 28 U.S.C. § 2254(a). In addition, petitioner must have exhausted all available state remedies. 28 U.S.C. § 2254(b).

It is evident on the face of the petition that Ali has yet to exhaust his state court remedies, as there is no indication he has pursued a direct appeal.¹ The petition is thus premature.²

Accordingly, the request to proceed in forma pauperis (Doc. 2) is GRANTED and this action will be dismissed without prejudice pursuant to Rule 4 of the Rules Governing Section 2254 Cases. Further, the Court certifies, pursuant to 28 U.S.C. § 1915(a)(3), that an appeal from this decision could not be taken in good faith, and that there is no basis on which to issue a certificate of appealability. Fed. R. App. P. 22(b); 28 U.S.C. § 2253.

IT IS SO ORDERED.

Dated: June 27, 2008

/s/ John R. Adams
JOHN R. ADAMS
UNITED STATES DISTRICT JUDGE

¹ Ali's state habeas action, *Ali v. Thomas*, 116 Ohio St.3d 1453 (2007) (sua sponte, cause dismissed), is facially insufficient for purposes of exhaustion, as such an action may be pursued solely to challenge jurisdiction of the trial court. Ohio Rev. Code § 2725.05.

² The court expresses no opinion concerning whether petitioner procedurally defaulted in the state court.